

New Zealand-Malaysia Agreement on Environmental Cooperation

Preamble

The Government of New Zealand and the Government of Malaysia, hereinafter referred to as the “Parties”, in order to provide a framework for constructive dialogue and cooperation on environmental issues within the context of the Parties’ desire to strengthen the growing economic and political relationship:

Sharing a commitment to sustainable development and the conservation and enhancement of environmental quality;

Acknowledging that both Parties share a commitment to a high level of environmental protection and standards, and to upholding these in the context of sustainable development, taking into account the different levels of national economic development;

Recognising that environment and trade policies should be mutually supportive, with a view to promoting sustainable development;

Taking into account the unique circumstances of each Party;

Respecting the sovereign right of each Government to set, administer and enforce its own environmental laws, regulations, policies and practices; and

Affirming that environmental laws, regulations, policies and practices shall not be used for trade protectionist purposes;

Hereby enter into this Agreement on Environmental Cooperation (“the Agreement”). The Agreement is as follows:

Article 1

Objectives

The objectives of the Parties shall be to:

- (a) achieve better understanding of each Party's environment systems, policies and practices through cooperation and dialogue;
- (b) improve the capacities and capabilities of the Parties, including that of relevant stakeholders; and
- (c) implement commitments undertaken by them to improve the environment in their respective nations.

Article 2

Key Understandings

1. Each Party shall undertake cooperative activities and exchange views and expertise on environment issues of mutual interest through participating in a collaborative forum.
2. The Parties reaffirm their intention to continue to pursue high levels of environmental protection and fulfil their international commitments made at the Earth Summit at Rio de Janeiro in 1992, and the World Summit on Sustainable Development in 2002 in Johannesburg, as well as commitments agreed to by the Parties in multilateral environment agreements.

3. Each Party shall endeavour to have its environmental laws, regulations, policies and practices in harmony with its international environmental commitments.

4. Each Party shall respect the other Party's sovereign right to set their own policies and national priorities and to set, administer and enforce their own environmental laws and regulations.

5. Each Party shall ensure that its environmental laws, regulations, policies and practices shall not be used for trade protectionist purposes.

6. Neither Party shall seek to encourage or gain trade or investment advantage by weakening or failing to enforce or administer its environment laws, regulations, policies and practices in a manner affecting trade between the Parties.

7. Each Party shall, where appropriate, promote public awareness of its environmental laws, regulations, policies and practices domestically, and endeavour to ensure that the processes and institutions for the operation and enforcement of its environmental laws and regulations are fair, equitable and transparent.

Article 3

Cooperation

1. Taking account of their national priorities and available resources, the Parties shall cooperate on mutually agreed environmental issues through the interaction of Government, industry, educational and research institutions in each Party.

2. Each Party may, where appropriate, invite the participation of its non-governmental sectors and other organisations in identifying potential areas for cooperation.

3. Each Party may, where appropriate, invite the participation of its non-governmental sectors and other organisations in undertaking cooperative activities as mutually agreed.

4. Each Party shall encourage and facilitate, where appropriate, the following activities:

- (a) collaborative research on subjects of mutual interest;
- (b) exchange of environment experts and management personnel;
- (c) exchange of technical information and publications;
- (d) workshops and exchange of best practice; or
- (e) any other modes of cooperation agreed upon by the Parties.

Such cooperation shall take into consideration each Party's environmental priorities and needs as well as the resources available. The funding of cooperative activities shall be agreed by the Parties on a case by case basis.

5. The Parties' intention is to cooperate in environmental areas of common interest. Cooperative activities may be in areas of environmental expertise and technology and natural resource management including, but

not limited, to waste management, wetlands management, eco-tourism, water resources/watershed management, environmental remediation, climate change-related technologies, extended producer responsibility, biodiversity conservation, national park/reserve management, sustainable forest management, marine and coastal resources management, public participation in environmental management and environmental education.

6. To facilitate the cooperation provided for in this Article, as a first step, the Parties shall exchange lists of their initial priorities.

Article 4

Institutional Arrangements

National Contact Points

1. Each Party shall designate a national Contact Point for environmental matters to facilitate communication between the Parties.

Environment Committee

2. The Parties shall establish an Environment Committee comprised of senior officials of their Government agencies responsible for environment-related matters. The functions of the Environment Committee shall include:

- (a) establishing an agreed programme of cooperative activities;
- (b) overseeing and evaluating the cooperative activities;
- (c) serving as a channel for dialogue on matters of mutual interest;

- (d) reviewing the operation and outcomes of this Agreement; and
- (e) providing a platform for dialogue.

3. The Environment Committee shall meet within the first year of the date of entry into force of this Agreement, and subsequently thereafter, as mutually agreed by the Parties. Unless the Parties agree otherwise, the venue for meetings shall alternate between the Parties.

4. The Environment Committee may establish working groups to discuss environmental issues as required, which may meet intersessionally.

5. After three years from the date of entry into force of this Agreement, or as otherwise agreed by the Parties, the Environment Committee shall review the operation and outcomes of this Agreement.

6. The Environment Committee and national Contact Points may exchange information and coordinate activities between meetings using email, video-conferencing or other means of communication.

Stakeholder Consultation

7. In carrying out its work the Environment Committee may consult or seek the advice of stakeholders and relevant experts in each Party and may decide to invite their attendance at the meetings of the Environment Committee.

8. Each Party may, where appropriate, provide an opportunity for its domestic stakeholders to submit views or advice to it on matters relating to the operation of this Agreement.

9. Each Party may develop mechanisms, where appropriate, to inform its public of activities undertaken pursuant to this Agreement in accordance with its laws, regulations, policies and practices.

10. The Environment Committee may publicly release a report on its work at the end of each meeting.

Article 5

Consultation

1. The Parties shall at all times endeavour to agree on the interpretation and application of this Agreement, and shall make every attempt through dialogue, consultation and cooperation to resolve any issue that might affect its operation.

2. Should any issues arise between the Parties over the interpretation or operation of this Agreement, the Parties shall in good faith resolve the issues amicably through dialogue, consultation and cooperation.

3. A Party may request consultation with the other Party through the national Contact Point regarding any matter arising over the interpretation or operation of the Agreement. The national Contact Point shall identify the office or official responsible for the issue and assist, if necessary, in facilitating communication between the Parties. Unless the Parties otherwise agree, consultations shall commence within 30 days of a Party's delivery of a request for consultations to the other Party's national Contact Point.

4. If consultations fail to resolve the matter, either Party may request the Environment Committee be convened to assist in resolving such issues. The Environment Committee shall meet as soon as practicable, and no later than 90 days following the request. Once the request is received, the national Contact Points shall liaise to verify the facts in relation to the issue before the Environment Committee meets.

5. To assist its deliberations, the Environment Committee may request advice from an independent expert or experts, as chosen by the Environment Committee.

6. The Environment Committee shall produce a report providing conclusions and recommendations on resolving the issue. The Environment Committee's report, including its conclusions and recommendations, may be made public.

7. The Parties shall implement the conclusions and recommendations of the Environment Committee as soon as practicable.

Article 6

Disclosure of Information

Where a Party provides information to the other Party in accordance with this Agreement and designates the information as confidential, the other Party shall maintain the confidentiality of the information, subject to their national laws.

Article 7
Final Provisions

This Agreement shall enter into force on the date of the later signature of the Parties, or as otherwise mutually agreed by the Parties.

IN WITNESS WHEREOF, the undersigned, being duly authorised by their respective Governments, have signed this Agreement.

For the Government of New Zealand:

For the Government of Malaysia:

Nick Smith
Minister for the Environment

YB Datuk Douglas Uggah Embas
Minister of Natural Resources and Environment

Done at _____ this
_____ day of _____ 2009

Done at _____ this
_____ day of _____ 2009